United Nations S/2007/723

Security Council

Distr.: General
10 December 2007

Original: English

Letter dated 10 December 2007 from the Secretary-General to the President of the Security Council

Recalling my statement of 1 August 2007, in which I welcomed the initiative by the countries of the Contact Group (France, Germany, Italy, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America) to establish a Troika comprising representatives of the European Union, the Russian Federation and the United States to lead a period of further negotiations on the future status of Kosovo, I have the honour to transmit herewith the report of the European Union/United States/Russian Federation Troika on Kosovo conveyed to me by the Contact Group at the completion of the Troika's mandate (see enclosure).

I should be grateful if you would bring this document to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Enclosure

Report of the European Union/United States/Russian Federation Troika on Kosovo

4 December 2007

Summary

1. We, a Troika of representatives from the European Union, the United States and the Russian Federation, have spent the last four months conducting negotiations between Belgrade and Pristina on the future status of Kosovo. Our objective was to facilitate an agreement between the parties. The negotiations were conducted within the framework of Security Council resolution 1244 (1999) and the guiding principles of the Contact Group (see S/2005/709). In the course of our work, the parties discussed a wide range of options, such as full independence, supervised independence, territorial partition, substantial autonomy, confederal arrangements and even a status silent "agreement to disagree".

2. The Troika was able to facilitate high-level, intense and substantive discussions between Belgrade and Pristina. Nonetheless, the parties were unable to reach an agreement on the final status of Kosovo. Neither party was willing to cede its position on the fundamental question of sovereignty over Kosovo. This is regrettable, as a negotiated settlement is in the best interests of both parties.

Background

3. A political process to determine the future status of Kosovo, the last major issue related to Yugoslavia's collapse, has been under way for over two years. The United Nations Secretary-General appointed Martti Ahtisaari as his Special Envoy in November 2005 to undertake the future status process envisioned in Security Council resolution 1244 (1999). After 15 months of United Nations-sponsored negotiations, President Ahtisaari prepared a *Comprehensive Proposal for the Kosovo Status Settlement*, which included measures to protect Kosovo's non-Albanian communities, and a recommendation that Kosovo should become independent subject to a period of international supervision. Pristina accepted the Ahtisaari Settlement in its entirety; Belgrade rejected it.

4. After a period of discussions in the Security Council, the Contact Group (France, Germany, Italy, Russia, the United Kingdom and the United States) proposed that a "Troika" of officials from the European Union, the United States and Russia undertake yet another period of negotiations with the goal of achieving a negotiated agreement. On 1 August 2007, the Secretary-General welcomed this initiative, restated his belief that the status quo was unsustainable and requested a report from the Contact Group on these efforts by 10 December 2007. The United Nations Office of the Special Envoy for the Kosovo Future Status Process (UNOSEK) would be associated with the process by standing ready to provide information and clarification on request (see annex I).

The Troika's mission

5. Upon our appointment as Troika representatives, we vowed to "leave no stone unturned" in the search for a mutually acceptable outcome. In pursuit of this goal, we explained to the parties the principles that would guide our work. First, we

reaffirmed that Security Council resolution 1244 (1999) and the November 2005 guiding principles of the Contact Group would continue to be our operating framework. Second, we noted that while the Ahtisaari Settlement was still on the table, we would be prepared to endorse any agreement the parties might be able to reach. Both sides were repeatedly reminded of their responsibility for success or failure of the process.

6. We also explained that the Troika had no intention of imposing a solution. Instead, the burden was on each party to convince the other side of the merits of its position. Although our role would be primarily to facilitate direct dialogue, we also intended to take an active role in identifying areas of possible compromise.

Working schedule

7. During the four months of our mandate, we undertook an intense schedule of meetings with the parties (see annex II). This schedule comprised 10 sessions, six of which consisted of face-to-face dialogue, including a final intensive three-day conference in Baden, Austria, as well as two trips to the region. During the process, Belgrade was represented by President Boris Tadić, Prime Minister Vojislav Koštunica, Foreign Minister Vuk Jeremić and Minister for Kosovo Slobodan Samardzić. Pristina was represented by the "Team of Unity" composed of President Fatmir Sejdiu, Prime Minister Agim Çeku, President of the Assembly Kolë Berisha, Hashim Thaçi and Veton Surroi. The Troika appreciated the fact that both delegations were represented at the highest possible level, underlining the importance they attached to the process. In addition to the joint sessions we arranged separate meetings with the parties in order to consult with them individually. Our sessions were long and often difficult, as we confronted a legacy of mutual mistrust and sense of historical grievance about the conflicts of the 1990s. The Contact Group supported our work, and its foreign ministers urged the parties to approach the negotiations with "creativity, boldness and in a spirit of compromise" (see annex III). We also sought, and received, pledges from the parties that neither would engage in provocative acts or statements during the process (see annexes IV and V).

8. As we began our work, we first explored the well-established positions of each side. Pristina restated its preference for Kosovo's supervised independence and reconfirmed its acceptance of the Ahtisaari proposal. Belgrade rejected the Ahtisaari proposal and restated its preference that Kosovo be autonomous within Serbia. As a result, there was no discussion of the Ahtisaari proposal nor any discussion that it should be modified. Both sides employed historical, functional, legal and practical arguments to support their preferred outcome. Belgrade elaborated its model of substantial autonomy to enhance the powers of an autonomous Kosovo and reduce those that it would reserve. It asserted that there would be no return to the pre-March 1999 situation. Pristina presented a draft "Treaty of Friendship and Cooperation", which describes how Kosovo and Serbia, as independent states, could cooperate on issues of mutual concern, establish common bodies, enhance their commitment to multi-ethnicity and support each other's Euro-Atlantic aspirations.

9. Despite our repeated call for fresh ideas and a spirit of compromise, neither side was able to convince the other to accept its preferred outcome. Encouraged by the Contact Group's Ministerial Statement of 27 September (annex III), we undertook a more active approach. We developed our assessment in the form of the

"Fourteen Points" of possible overlap in the parties' positions (see annex VI). The parties responded to these points, without accepting them fully.

10. Under our guidance, the parties reviewed outcomes ranging from independence to autonomy, as well as alternate models such as confederal arrangements, and even a model based on an "agreement to disagree" in which neither party would be expected to renounce its position but would nonetheless pursue practical arrangements designed to facilitate cooperation and consultation between them. Other international models, such as Hong Kong, the Åland Islands and the Commonwealth of Independent States, were discussed. While it was broached, we did not dwell on the option of territorial partition, which was deemed unacceptable by both the parties and the Contact Group. None of these models proved to be an adequate basis for compromise. We concluded face-to-face negotiations between the parties at a high-level conference in Baden, Austria, from 26 to 28 November, where we again encouraged both sides to find a way out of the deadlock.

Conclusions

11. Throughout the negotiations both parties were fully engaged. After 120 days of intensive negotiations, however, the parties were unable to reach an agreement on Kosovo's status. Neither side was willing to yield on the basic question of sovereignty.

12. Nevertheless, despite this fundamental difference on status, which the Troika was unable to bridge, we believe this process served a useful purpose. We gave the parties an opportunity to find a solution to their differences. Under our auspices, the parties engaged in the most sustained and intense high-level direct dialogue since hostilities ended in Kosovo in 1999. Through this process, the parties discovered areas where their interests aligned. The parties also agreed on the need to promote and protect multi-ethnic societies and address difficult issues holding back reconciliation, particularly the fate of missing persons and the return of displaced persons. Perhaps most important, Belgrade and Pristina reaffirmed the centrality of their European perspective to their future relations, with both sides restating their desire to seek a future under the common roof of the European Union.

13. While differences between the parties remain unchanged, the Troika has nevertheless been able to extract important commitments from the parties. In particular, both parties have pledged to refrain from actions that might jeopardize the security situation in Kosovo or elsewhere and not use violence, threats or intimidation (see annex VII). They made these commitments without prejudice to their positions on status. Both parties must be reminded that their failure to live up to these commitments will affect the achievement of the European future that they both seek.

14. We note that Kosovo and Serbia will continue to be tied together due to the special nature of their relationship, especially in its historical, human, geographical, economical and cultural dimensions. As noted by Contact Group Ministers at their meeting in New York on 27 September, the resolution of Kosovo's status is crucial to the stability and security of the Western Balkans and Europe as a whole. We believe the maintenance of peace in the region and the avoidance of violence is of paramount importance and therefore look to the parties to stand by their commitments. We, furthermore, strongly believe that the settlement of Kosovo's status would contribute to the fulfilment of the European aspirations of both parties.

Annex I

Statement by the Secretary-General on the new period of engagement on Kosovo

1 August 2007

The Contact Group has briefed me of its engagement on the modalities for further negotiations between Pristina and Belgrade. This effort will be led by a Troika comprising representatives of the European Union, the Russian Federation and the United States.

I welcome this initiative by the Contact Group. I hope that the new period of engagement will lead to agreement on Kosovo's future status, which remains a priority for the United Nations.

The international community must find a solution that is timely, addresses the key concerns of all communities living in Kosovo and provides clarity for Kosovo's status. The status quo is not sustainable.

The United Nations Office of the Special Envoy for Kosovo (UNOSEK) will be associated with the process by standing ready to provide information and clarification on request.

The United Nations will continue to play a constructive role in the new period of engagement and continue its major role on the ground in Kosovo.

The Contact Group will report back to me by 10 December.

Annex II

Troika events

9 August: First meeting of the Troika with the Contact Group (*London*)

10-12 August: First meeting of the Troika with the parties (*Belgrade and Pristina*)

30 August: Second meeting of the Troika with the parties (*Vienna*)

18-19 September: Third meeting of the Troika with the parties (*London*)

27 September: Meeting of the Troika with the Secretary-General, the EU Secretary-General/High Representative, the NATO Secretary-General and tne Contact Group Ministers (*New York*)

28 September: Fourth meeting of the Troika with the parties — first face-to-face meeting (*New York*)

14 October: Fifth meeting of the Troika with the parties — second face-to-face meeting (*Brussels*)

22 October: Sixth meeting of the Troika with the parties — third face-to-face meeting (*Vienna*)

5 November: Seventh meeting of the Troika with the parties — fourth face-to-face meeting (*Vienna*)

20 November: Eighth meeting of the Troika with the parties — fifth face-to-face meeting (*Brussels*)

26/27/28 November: Ninth meeting of the Troika with the parties — sixth face-to-face meeting (*Baden, Austria*)

3 December: Tenth meeting of the Troika with the parties (*Belgrade and Pristina*)

Annex III

Statement on Kosovo by Contact Group Ministers

New York, 27 September 2007

Contact Group Ministers, together with the United Nations Secretary-General, EU High Representative, the European Union Presidency, European Commissioner for Enlargement and the NATO Secretary-General met in New York on 27 September to discuss the Kosovo Status Process. They heard a report from the European Union/Russian Federation/United States Troika. A representative of UNOSEK was also present.

Ministers reiterated that an early resolution of Kosovo's status is crucial to the stability and security of the Western Balkans and Europe as a whole. Ministers reaffirmed their resolve to seek a negotiated settlement endorsed by the Security Council. Ministers expressed their appreciation for the continued efforts by UNMIK and KFOR to contribute towards a multi-ethnic, peaceful and democratic Kosovo. They endorsed fully the United Nations Secretary-General's assessment that the status quo is not sustainable. It has damaging consequences for Kosovo's political, social and economic development and for the underlying stability of the region. A solution therefore has to be found without delay.

When they met in New York in September 2006, Contact Group Ministers encouraged the United Nations Special Envoy to prepare a comprehensive proposal for a status settlement. The proposal, submitted after 14 months of negotiations, has been accepted by Pristina and rejected by Belgrade.

As a further effort to achieve a negotiated settlement, the Contact Group established a Troika whose task would be to facilitate a period of further discussion between the parties. The Troika process will be concluded by the Contact Group reporting to the United Nations Secretary-General by 10 December.

Ministers expressed full support for the Troika process and welcomed the quick pace of activity and the constructive atmosphere of the first rounds of talks. Ministers reiterated their view that the Contact Group's guiding principles of November 2005 should continue to set the framework for the status process, which is based on Security Council resolution 1244 (1999).

The next step in the Troika process will involve direct talks between the parties in New York on 28 September. Contact Group Ministers welcomed this move to face-to-face discussions. Ministers urged both sides to approach the remaining negotiations with creativity, boldness and in a spirit of compromise. Furthermore, any settlement needs to be acceptable to the people of Kosovo, ensure standards implementation with regard to Kosovo's multi-ethnic character and promote the future stability of the region. Ministers underlined that any future status settlement should focus on developing the special nature of the relations between the two sides, especially in their historical, economic, cultural and human dimensions.

Ministers urged the parties to take seriously the opportunity created by the Troika process to secure a negotiated settlement. The onus is on each of the parties to develop realistic proposals. Although the Special Envoy's Comprehensive Proposal remains on the table, the Contact Group is ready to support any agreement reached between the parties. Ministers reiterated that striving for a negotiated

settlement should not obscure the fact that neither party can unilaterally block the status process from advancing. Ministers supported the continued engagement of the United Nations, and welcomed NATO and EU readiness to play a leading role in the implementation of a status settlement for Kosovo and to continue the necessary preparations for these responsibilities. Ministers welcomed the active approach adopted by the EU in the light of the European perspective of the Western Balkans region.

Ministers noted and welcomed the undertakings made to the Troika by both sides to refrain from provocative words and actions and call on the parties to honour these commitments. Political developments in Kosovo and Serbia should not interfere with the parties' constructive engagement in the Troika process. They expressed their hope that elections, due in Kosovo on 17 November, would take place with full participation of all communities and against a calm and orderly background.

All those present at the meeting will remain closely engaged with the process and fully supportive of the Troika's efforts.

Annex IV

Vienna non-paper

On the occasion of the meeting with the Troika on 30 August in Vienna, both parties reaffirmed their statements regarding the security situation.

The Belgrade delegation reaffirmed its willingness to do all within its power to ensure peace and stability during this process. The Serbian side and its institutions will exercise special vigilance in this regard.

The Pristina delegation reaffirmed its willingness to do all within its power to ensure peace and stability during this process, taking into account KFOR's mandate for the overall safe and security environment of Kosovo and the respective mandates of UNMIK Police and the Kosovo Police Service.

Both sides promised to abstain from any acts or statements that might be regarded as provocative in the delicate atmosphere during the current period of engagement. Both sides agreed that these mutual commitments should serve as confidence-building measures at the beginning of the period of engagement with the Troika.

Read to both delegations on 30 August and confirmed in the presence of all the members of the Troika.

Annex V

New York Declaration (28 September)

At their meeting with the Troika on 28 September in New York, both delegations welcomed the first direct talks between the parties held under Troika auspices. The parties reiterated their commitment to engage seriously in these talks. The Troika reminded the parties of the Secretary-General's statement of 1 August that the status quo is not sustainable.

The two delegations were informed of the statement of the Contact Group at its Ministerial Meeting in New York on 27 September. Ministers reiterated, inter alia that an early resolution of Kosovo's status is crucial to the stability and security of the Western Balkans and Europe as a whole. Ministers reaffirmed their resolve to seek a negotiated settlement endorsed by the Security Council. Contact Group Guiding principles should continue to set the framework for status process, based on Security Council resolution 1244 (1999). Ministers also urged both sides to approach the remaining negotiations with creativity, boldness and in a spirit of compromise. They urged the parties to take seriously the opportunity created by the Troika process to secure a negotiated settlement. They also reminded the parties that the onus was on each of them to develop realistic proposals and that neither party could unilaterally block the process from advancing. Ministers underlined that any future status settlement should focus on developing the special nature of the relations between the two sides, especially in their historical, economic, cultural and human dimensions.

Acknowledging that violence, provocation and intimidation would constitute a grave risk for the Troika process as well as for the stability and security of the region, both parties reaffirmed their commitment, as expressed in the Vienna document of 30 August, to refrain from any activities or statements that might jeopardize the security situation.

Both parties understand that the Contact Group will report to the United Nations Secretary-General by 10 December 2007. In this regard, they welcomed the Troika's intention to intensify its work programme with a view to reaching agreement before the Troika's mandate concludes.

Accepted by both delegations at the first Troika-led direct meeting in New York City on 28 September and confirmed in the presence of all members of the Troika.

Annex VI

Troika assessment of negotiations: principal conclusions

The Troika has reviewed the positions of the two parties. Without prejudice to the positions of both parties on status, the following principles can open a path to a solution:

1. Belgrade and Pristina will focus on developing the special nature of the relations existing between them especially in their historical, economic, cultural and human dimensions.

2. Belgrade and Pristina will solve future problems between them in a peaceful manner and not engage in actions or dispositions that would be regarded as threatening to the other side.

3. Kosovo will be fully integrated into regional structures, particularly those involving economic cooperation.

4. There will be no return to the pre-1999 status.

5. Belgrade will not govern Kosovo.

6. Belgrade will not re-establish a physical presence in Kosovo.

7. Belgrade and Pristina are determined to make progress towards association and eventually membership of the European Union as well as to move progressively towards Euro-Atlantic structures.

8. Pristina will implement broad measures to enhance the welfare of Kosovo-Serbs as well as other non-Albanian communities, particularly through decentralization of local government, constitutional guarantees and protection of cultural and religious heritage.

9. Belgrade and Pristina will cooperate on issues of mutual concern, including:

   a. Fate of missing persons and return of displaced persons

   b. Protection of minorities

   c. Protection of cultural heritage

   d. Their European perspectives and regional initiatives

   e. Economic issues, including fiscal policy and energy, trade and harmonization with EU standards and development of a joint economic growth and development strategy in line with regional economic initiatives

   f. Free movement of people, goods, capital and services

   g. Banking sector

   h. Infrastructure, transportation and communications

   i. Environmental protection

   j. Public health and social welfare

   k. Fight against crime, particularly in the areas of terrorism, human-, weapon- and drug-trafficking and organized crime

l. Cooperation between municipalities and the Government of one of the two sides

m. Education.

10. Belgrade and Pristina will establish common bodies to implement cooperation.

11. Belgrade will not interfere in Pristina's relationship with international financial institutions.

12. Pristina will have full authority over its finances (taxation, public revenues, etc.).

13. Kosovo's EU Stabilization and Association Process (Tracking Mechanism) will continue unhindered by Belgrade.

14. The international community will retain civilian and military presences in Kosovo after status is determined.

Annex VII

Troika press communiqué: the Baden Conference

Baden, Austria, 28 November 2007

The European Union/United States/Russian Federation negotiating Troika has completed an intensive conference with the delegations from Belgrade and Pristina to discuss Kosovo's status. The Troika brought together leaders of both sides in Baden, Austria, for nearly three days of intense talks. The Baden Conference marks the end of Troika-sponsored face-to-face negotiations.

Over the course of the talks, the Troika urged the parties to consider a broad range of options for Kosovo's status. The Troika explored together with both sides every reasonable status outcome for Kosovo to determine where there might be potential for a mutually acceptable outcome.

Regrettably, the parties were unable to reach an agreement on Kosovo's future status. Nevertheless, the Troika believes that the parties benefited from this period of intensive dialogue. It was an opportunity for them to build trust and to identify shared interests, in particular their desire to seek a better future through achievement of a European perspective.

The Troika-led negotiations provided the parties six occasions to discuss directly the final status of Kosovo. The negotiations created an opportunity to engage in dialogue at the highest levels. These meetings have permitted the Troika to reiterate the importance of maintaining peace, avoiding incitement to violence and jeopardizing security in the region. The parties have accepted these principles repeatedly, most recently during the Baden Conference. Both sides made it clear they wish to avoid violence. This commitment to peace must continue after the Troika completes its work on 10 December. The Troika calls on Belgrade and Pristina to maintain communications without prejudice to their positions on status. It is up to Belgrade and Pristina to sustain their commitment to peace and dialogue on issues of mutual concern.

The Troika will now begin to draft the report which will be submitted no later than 10 December to the Secretary-General by the Contact Group. During the Troika's visit on 3 December to Belgrade and Pristina, it will review this report with the parties. After the Contact Group submits the report to the Secretary-General, the Troika's mandate will conclude.